

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMERICAN-ARAB ANTI-
DISCRIMINATION COMMITTEE,
NATIONAL LAWYERS GUILD,
CYNTHIA QUENTIN BROWN,
GABRIEL CAMACHO, TAREEF KAWA,
and DAN KESSELBRENNER,

Plaintiffs,

V.

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY,

Defendant.

CIVIL ACTION NO.
04-CV-11652 (GAO)

AFFIDAVIT OF LEWIS P. BEST

Lewis P. Best, being duly sworn, hereby deposes and says as follows:

1. I am a Sergeant Detective with the Massachusetts Bay Transportation Authority ("MBTA") Transit Police Department. I have been a police officer for more than twenty-two years and have been with the MBTA for sixteen years. I have an extensive background in criminal investigation. I have received a wide range of specialized training in criminal investigation and anti-terrorism from various federal and state law enforcement agencies and private institutions.

2. I am currently the Commander of the MBTA Transit Police Intelligence Unit. In my capacity as Commander of the Intelligence Unit, I gather information from intelligence communities at the international, national and regional levels, including the United States Department of Homeland Security, the United States Secret Service, and

the United States Federal Bureau of Investigations, regarding the threat of terrorist attacks and hazards to public transportation systems.

3.

REDACTED

4. In addition, I attend weekly meetings chaired by the Massachusetts State Police Intelligence Unit to discuss potential terrorist threats and other security issues.

5. These sources indicate that al-Qaeda is moving forward with plans to carry out a large-scale attack in the United States in an effort to disrupt our democratic process. A copy of a Press Release issued by the Department of Homeland Security on July 8, 2004 describing this threat is attached hereto as **Exhibit A**.

6. Based on this threat, Secretary Tom Ridge of the Department of Homeland Security has designated the Democratic and Republican National Conventions National Special Security Events and has appointed the United States Secret Service the lead agency for identifying and implementing protective efforts in Boston and New York in connection with these high-profile events. See Exhibit A, p. 2.

7. Particular areas of concern for the Department of Homeland Security are the convention cities' mass transit systems. See Exhibit A, p. 2.

8. Based upon the targeting by Al-Qaeda and other terrorist groups of transit systems in the past, the Department of Homeland Security is concerned about the threat to the nation's mass transit systems. See Exhibit A., p. 2.

9. Indeed, on May 20, 2004, the U.S. Department of Homeland Security issued a Transportation Security Directive concerning the threat to passenger rail

systems. A copy of the Security Directive is attached hereto as **Exhibit B**. According to the Security Directive,

Intelligence indicates that terrorists have considered attacks on subways and trains in a number of countries, including the United States, using a variety of means including explosives, incendiary materials, small arms, and poison gas. The recent train bombings in Spain emphasize the intent of terrorists to target rail systems in Western Countries with the aim of causing mass casualties.

10. In addition, the Counterterrorism Division of the Federal Bureau of Investigation, issued Intelligence Bulletin No. 134 on July 1, 2004 indicating that intelligence reporting indicates a wide range of possible infrastructure targets, including, “subways, passenger trains, freight trains carrying toxic industrial chemicals, rail and vehicle bridges, and tunnels.” A copy of Intelligence Bulletin No. 134 is attached hereto as **Exhibit C**.

11. Most recently, the Federal Bureau of Investigation and the Department of Homeland Security issued a Joint Threat Assessment concerning the Democratic National Convention. A copy of the Joint Assessment is attached hereto as **Exhibit D**. The Assessment specifically calls attention to the threat to mass transit, noting that

Al-Qaeda and other groups have demonstrated the intent and capability to attack public transportation with conventional explosives, vehicle-borne bombs and suicide bombers. . . Recent attacks against transportation targets have increased the profile of the terrorist threat to the transportation industry. Railways and subways are targets of interest, as the Madrid bombing demonstrates. . .

12. The following attacks have occurred on mass transit systems within the last ten years:

- **March 11, 2004**
Madrid Spain

On March 11, 2004, a terrorist attack on commuter rail trains during rush hour killed 202 people. With the national election just days away, the commuter trains exploded while carrying thousands of passengers from suburban

communities during the morning rush hour commute. Thirteen bombs were placed on four trains throughout the transit system. Three of these trains were stopped in crowded train stations. Ten of the thirteen bombs detonated causing mass destruction, injury, and deaths. At approximately 7:40 a.m., four bombs exploded on a train that was stopped at Atocha station. Approximately one minute later, three bombs exploded on a train that was holding just outside of Atocha station. One minute later, two more bombs exploded at nearby Santa Eugenia station. The final bomb exploded on a train at Santa Eugenia Station a minute later. In total, the explosions killed 202 people and injured approximately 2,000 people.

Spanish officials believe that the bombs were placed onto all four trains at one particular station that the trains had all passed through. The bombs, containing GOMA-2 and weighing approximately 28-33 pounds, were loaded into backpacks that were strategically placed throughout the trains to create the most impact. An Islamic combatant group, "Brigade of Abu Hafs al-Masri" claimed responsibility for the attack shortly after. The group, known to have links to al-Qaeda, claimed that the attack was "payback for supporting the Iraq War" and, a "massive attack on the United States was 90% ready."

- February 6, 2004**
Moscow, Russia

Six weeks before the March 14, 2004 presidential election, an explosion ripped through a subway car during the morning rush hour, killing approximately 40 people and injuring more than 100 others. At least three explosions occurred in the second car of the subway train while the train was in between two stations. The subway train was 300 meters south of Paveletskaya station, which is considered a major connecting point for the transit system.

No organizations have claimed responsibility for the bombing, but the Federal Security Service is focusing their investigation on Chechen rebels, who have used suicide bombers in the past.

- September 11, 2001**
New York, NY; Washington, DC

Terrorists hijacked four U.S. commercial airliners taking off from various locations in the United States in a coordinated attack. In separate attacks, two of the airliners crashed into the twin towers of the World Trade Center in New York City, which caught fire and collapsed. The attacks also destroyed, either wholly or partially, four subway stations. A third airliner crashed into the Pentagon in Washington, DC causing extensive damage. The fourth airliner, believed to be headed towards Washington, DC, crashed outside Shanksville, PA. The official death toll in the terror attacks was 2,976 people.

- **March 20, 1995**
Tokyo, Japan

During the morning rush hour on March 20, 1995, terrorists released the chemical agent Sarin on three separate subway trains in Tokyo, Japan. The release of the nerve gas occurred while the three trains entered the same station. Five members of the AUM Shinrikyo terrorist organization boarded three subway trains carrying plastic bags of Sarin. The plastic bags were rolled up in newspapers in an effort to disguise and conceal them. Along with the plastic bags, the carriers had umbrellas with sharp point ends that were used to pop holes in the bags to release the toxic gas. Approximately 5,000 to 6,000 people were exposed to the nerve gas.

- **July 25, 1995**
Paris, France

On July 25, 1995 at 5:35 p.m., during the afternoon rush hour, a bomb exploded on the front of the sixth car of a commuter rail train as it approached St. Michel-Notre Dame station. Seven people died and eighty were injured. Seventeen days after the explosion, a bomb exploded at the entrance of a Metro station.

13. In addition to these deadly attacks, terrorist groups have attempted and/or threatened countless other attacks on mass transit systems worldwide over the last ten years. A summary of such attempts and threats is attached hereto as **Exhibit E**.

14. Moreover, MBTA officials have reported numerous incidents of suspicious activity on its vehicles and in its stations in recent months. A summary of such activity is attached hereto as **Exhibit F**.¹

15. Given the proximity of the venues that have been selected for the Democratic and Republic National Conventions to railroad and mass transit, the transportation systems in the convention cities are of particular concern to the Department of Homeland Security. See Exhibit A.

¹ Given the sensitive nature of this information and the safety concerns posed by its dissemination to the public, the MBTA is filing Exhibit F under seal, for an in camera inspection by Judge O'Toole.

16. Consequently, as part of the overall comprehensive security plan for the Democratic and Republican Conventions, the Secret Service is working with the transit authorities in Boston and New York to secure those cities' mass transit systems. See Exhibit A.

17. To address the threats posed by the Fleet Center's location, the Secret Service has ordered Interstate Route 93 closed to all traffic during the hours of 4:00 p.m. to 11:00 p.m. during the DNC.

18. The only vehicles that are permitted to travel on Interstate Route 93 during that time are emergency vehicles and MBTA buses that have been pre-screened by MBTA officials. The Secret Service requires that all buses using Interstate Route 93 during the restricted hours must contain a certificate issued by the MBTA indicating that the buses have been have been screened for explosives and other deadly devices and that all passengers' carry-on items have been subjected to security inspection.

19. In addition, no MBTA trains will be permitted to enter into or leave from North Station, which is directly below the Fleet Center, during the Democratic National Convention.

20. The Secret Service has also issued a directive that all persons nearing the Fleet Center must be searched.

21. Consequently, any passengers travelling on the MBTA Orange line, which travels directly below the Fleet Center, must be screened, before they near the Fleet Center.

22. The MBTA is also taking additional security measures to address the threat to MBTA trains and vehicles. These include a "Transit Watch" program that


encourages passengers as well as MBTA employees to be more aware and alert of their surroundings and to "See something? Say something." Attached hereto as **Exhibit G** is a description of the Transit Watch program.

23. In addition, the MBTA has implemented a security inspection program of person's handbags, briefcases and other carry-on items. A copy of General Order No. 2004-19, which sets forth the policy governing Security Inspections, is attached hereto to the Affidavit of Joseph C. Carter as Exhibit A. The Purpose of the Security Inspections is to deter persons from carrying explosives or other weapons aboard MBTA vehicles, and thereby to prevent an attack from occurring on the MBTA transit system.

24. The Security Inspections are not designed to catch any person who attempts to board an MBTA train or vehicle with an explosive or other destructive device. Rather, the purpose is to "harden our target," by making it more difficult for them to carry-out their plans. Moreover, based on prior terrorist attacks, it is clear that the perpetrators typically plot their attack for months, even years, meticulously planning their attack for a particular time of day and at a particular place on the system. During the planning phase, they run through their plan countless times so that there are no surprises on the day of the actual attack. The Security Inspections are designed to break the terrorists' patterns so they cannot practice their exact plan in the manner that they are accustomed to.

25. All MBTA Transit Police Officers have also received specialized counter-terrorism training and attended workshops on domestic security.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 26th
DAY OF JULY, 2004



Lewis P. Best